

OFFICE OF THE INSPECTOR GENERAL
U.S. Nuclear Regulatory Commission
Memorandum of Interview

OIG Case No: 07-63

On November 20, 2007, John SZABO, Senior Attorney, Office of General Counsel (OGC), U.S. Nuclear Regulatory Commission, was interviewed by Special Agent (SA) (b)(7)c and SA (b)(7)c regarding SZABO's interaction with former Commissioner Jeffrey MERRIFIELD, related to MERRIFIELD's search for post-government employment. SZABO provided essentially the following information:

SZABO stated that on approximately November 13, 2007, he was contacted by MERRIFIELD who indicated he would be attending an upcoming Institute of Nuclear Power Operations (INPO) conference and requested guidance on government regulations regarding post employment interaction with NRC staff. MERRIFIELD specifically asked that George MULLEY, OIG, NRC, be provided a copy of the response (*attached*). SZABO stated that other than this question, he had not been contacted by MERRIFIELD since MERRIFIELD's departure from the NRC. SZABO noted that several members from the NRC staff would be in attendance at the INPO conference, but that it was not an NRC hosted activity and no NRC hearings or other official meetings would take place. The Chairman, NRC, was a keynote speaker at the conference.

SZABO indicated that government ethics rules essentially preclude government employees from receiving meals, transportation, and other gifts with a value in excess of \$20.00 from "prohibited sources." SZABO explained that prohibited sources generally do not include family and friends, but would include professional acquaintances and individuals and firms having dealings with the NRC. SZABO indicated that there are various exceptions to this policy, and one includes "widely attended" events. In the case of a widely attended event, an NRC employee may attend with the approval of an appropriate NRC official. There are also exceptions for certain items related to employment negotiations, but he indicated this was an obscure exception and not one he had discussed with MERRIFIELD or his staff.

SZABO stated that NRC Management Directive (MD) 7.9 spells out agency policy on ethics approvals and waivers. It states that Commissioners are the approval authorities for themselves and their staff. In each instance, MERRIFIELD would produce a memorandum outlining the nature of the event and give his approval to attend. The memorandum would usually include a comment about coordination with OGC. SZABO stated that he usually received a draft copy of the memoranda to review prior to receiving the final, signed version. In other instances where he was asked specific questions about ethics issues, SZABO would generate a memorandum outlining the issue. SZABO maintained a "subject matter" file, and copies of all ethics memoranda which document these approvals and waivers were placed in this file. In addition, SZABO maintained a folder for individuals such as MERRIFIELD who were required to file public disclosure forms. A copy of all memoranda generated related to that person would also be kept in that individual file, in addition to the subject matter file.

SZABO indicated that he had no recollection of any discussions with MERRIFIELD about any job hunting trips or meetings paid for by prospective employers. SZABO indicated that he would have recalled such a conversation even if a corresponding

B/11
11

memorandum had been lost or never drafted. SZABO believed that MERRIFIELD or his staff would have called about something "as big as that." SZABO acknowledged that he had not explicitly informed MERRIFIELD or his staff that he had an expectation that he would be informed or consulted on instances where a prospective employer provided for MERRIFIELD's travel, meals or other items. However, MERRIFIELD had previously consulted him so frequently that SZABO believed MERRIFIELD would have also consulted with him on meetings with potential employers when MERRIFIELD received any items or reimbursements.

SZABO indicated that if a member of MERRIFIELD's staff attended a meal hosted by a prohibited source which did not meet one of the exceptions, (such as a widely attended function or a meal under \$20) the staff member should also either pay their own bill or decline the meal.

SZABO believed that MERRIFIELD's public disclosure form was completed on the date it was signed, July 3, 2007. SZABO did not recall how he received the form, but noted that he had dated the form in a block in the lower right hand corner. SZABO did not sign this form, but did review it prior to passing it on to Trip ROTHSCCHILD and Karen CYR, OGC, NRC, for their review and signature. SZABO did not review the form with MERRIFIELD present. SZABO did not give MERRIFIELD any specific advice on the completion of this form, but noted that he had worked with him on his submissions in the past and believed that MERRIFIELD was familiar with the form and the associated reporting requirements.

It was SZABO's impression that based on the form that MERRIFIELD did not have any arrangement for future employment on July 3, 2007. SZABO noted that even if MERRIFIELD would have been allowed to accept meals or transportation for employment search related items, he would still have been required to declare those items in the appropriate sections of the public disclosure. MERRIFIELD had never subsequently indicated to SZABO that he wished to update or amend his July 3, 2007 submission.

Attachment:
As Stated

Interviewed by: (Special Agent
Special Agent

(b)(7)c

Prepared on November 23, 2007

Reviewed by/on:

(b)(7)c